IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S. SIRI JAGAN

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 23524 of 2007(A)

PETITIONER:

K.K. VENUGOPALAN, S/O. KRISHNANKUTTY,
WATCH REPAIRER, KURUMBOOR HOUSE, P.O. KUNNAMKULAM,
THRISSUR DISTRICT.

BY ADV. SRI. P.N. RAVINDRAN
SMT. PREETHY KARUNAKARAN
SMT. M.M. DEEPA
SRI. JAYKAR. K.S.

RESPONDENTS:
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1. **THE STATE OF KERALA, REPRESENTED BY**
   THE SECRETARY TO GOVERNMENT,
   REVENUE DEPARTMENT, SECRETARIAT,
   THIRUVANANTHAPURAM.

2. **THE DISTRICT COLLECTOR,**
   THRISSUR.

3. **THE SPECIAL TAHSILDAR,**
   LAND ACQUISITION, THRISSUR.

4. **THE TAHSILDAR & ACCOMMODATION**
   CONTROLLER, THALAPPILLY TALUK.

5. **PRADEEP, S/O. PONNARASSERY MADHAVAN,**
   AGED 42, BUSINESS, "SASTHA COPY WORLD",
   OPPOSITE KUNNAMKULAM BUS STAND, KUNNAMKULAM P.O.,
   THRISSUR DISTRICT.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO. 23524 OF 2007

DATED THIS THE 2nd DAY OF AUGUST, 2007

JUDGMENT

The petitioner, who is a tenant in a building challenges Ext.P5 order of the District Collector, whereby the District Collector has directed demolition of the building, two rooms of which are occupied by the petitioner, on the ground of public safety. The building in question is part of a larger building, the balance of which has been acquired under the Kerala Land Acquisition Act. When the balance building was demolished, the portion now occupied by the petitioner as a tenant became in a dangerous condition and the Executive Engineer of KSTP filed a report to the effect that the building causes a danger to the public. It is pursuant to the same that Ext.P5 order has been passed by the District Collector.

2. The petitioner challenges Ext.P5 order on several grounds. First is that Ext.P5 order is neither an order under the Kerala Land Acquisition Act or under Section 133 of the Criminal Procedure Code and therefore the same is without jurisdiction. The second is that in O.S.No.108/05 in which the Deputy Tahsildar (Land Acquisition) is a party, the petitioner has obtained an order of status quo in respect of

the building. The petitioner also refers to Ext.P4 Commission Report filed by an Advocate Commissioner in O.S.No.701/07, filed by the petitioner before the Thrissur Sub Court, in respect of the same building, which according to the petitioner would conclusively show that the building in question does not cause any danger to the public. The petitioner, therefore seeks quashing of Ext.P5 order.

3. The learned Government pleader would want me to hold that although Ext.P5 order does not specifically state so, the same is an order under Section 133, especially in view of the public safety involved. He would point out that all the surrounding buildings have been demolished pursuant to the land acquisition proceedings and the rooms in the possession of the petitioner do not have any separate existence from other parts of the building and therefore, once other parts are demolished, the portion in question would cause a serious threat to public safety. He also points out that the specific finding in Ext.P5 that the staircase leading to the petitioner's rooms has to be demolished as part of the land acquisition proceedings. In that event the petitioner would not have any access to the rooms occupied by him also. The learned Government pleader also would draw my attention to a photograph of the building, which would show the seriousness of the situation.

4. After having heard both sides, I am not inclined to exercise my discretionary jurisdiction in favour of the petitioner, in

view of the fact that Ext.P5 order has been passed by the District Collector in view of the public safety involved, in spite of the fact that Ext.P5 order does not specifically state that the same is passed under Section 133 of the Criminal Procedure Code. I note that a competent Engineer of the KSTP has filed a report stating that the building in fact causes a serious threat to public safety. The petitioner does not allege any personal mala fides against the District Collector or the Engineer also.

In the above circumstances, the writ petition is dismissed.

S. SIRI JAGAN, JUDGE

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